K 1949

File No. O Emigration/49

Legal Department

A **BRANCH**

Subject:— Opinions under the

Indian Emigration Act 1922

K 6/(E)

472-

File No. O Emigration/49

CONTENTS.

O. Emigration /49

Legal Department File No.....

Sr. No.	R.I./O. No.	Subject	Pages.
		Opinions under the Indian Emigration Act, 1922	
1.	R.I.No 6288/27-8-49 O. No. 4037/3-8-49	Govt. of India Act, 1935 Section 124(1)	1-4
2.	R.I.No. 9903/5-1-49 O.No. 9015/10-8-49	G. of I. Deptt. of Education, Health & Lands Notifie. No. F 262/36 L & O dated 31-3-38 by Deptt. of Indian Ovs seas Notifie. No E. 84-1/42-O.S. DATED 31-8-43 Question of amending these notifications for the purpose of transferring the work to the Controller General of Emigration.	5-8

MM

SC

R.I.No. 6280, dt. 27-6-49.

Submitted.

Please see p. & S.D.note at p. 223 ante. The Ministry of External Affairs and Common Wealth Relations in the letter dated 14th Feb. 1949 at p. 231 states that the functions of repartriation under the South African Scheme which were entrusted to the Govt. of Bombay for two years by notifn. No. F. 262/36 L. & O. dated 31-3-1938 and exgended from time to time should be transferred to the Protector of Emigrants, Bombay who is newly appointed to discharge these functions. P. & S.D. has shown this to L.D. with reference to proceedings from pages 253 to 255 of P. & S.D. file 718/34 Part II of 1937 for information and remarks. The papers have been sent under A.S's signature.

By Govt. of India, Health and Lands, notifn. No. F. 262/36 L.& O., dated 31-3-1938, certain functions under the Indian Emigratic Act,1922 and rules made thereunders were entrusted to the Govt. of Bombay . Now it appears from the Govt. of India letter at p. 231 ante that functions under the South African Repatriation Scheme are to be transferred to the Procetor of Emigrants, Bombay, who is an Officer of the Central Govt. This will necessitate the amendement of the notifn. referred to above. It is for the Govt. of India to issue the necessary amending notification befor e the work is transferred to the Protector of Emigrants at Bombay. If and when the amending notifn. is issued by the Govt. of

India the necessary corrigendum to the notification printed in the Local Rules and orders will be issued by E.D.

MMC

Office of the R.L.A.

Indian Emigration Act, 1922, Government of India Act, 1935, Section 124(1)

By Government of India Health and Lands, notification No. F. 362/36 L.A O., dated the 31st March 1938, certain functions under the Indian Emigration Act, 1922, and rules made thereunder were entrusted to the Government of Bombay. Now it appears from the Government of India letter at page 231 ante that functions under the South African Repatriation Scheme are to be transferred to the Protector of Emigrants, Bombay, who is an Officer of the Central Government. This will necessitate the Amendment of the notifications referred to above. It is for the Government of India to issue the necessary amending notification before the work is transferred to the Protector of Emigrants at Bombay. If and when the amending notification is issued by the Government of India the necessary corrigendum to the notification printe printed in the Local Rules and orders, will be issued by Legal Department.

2. Attention of the Political and Services Department is invited to paragraph 104 of the Secretariat Instructions.

P.M.Ind.

Remembrancer of Legal Affairs.

U.R. to P.&.S.D., No. 4927 , dated the 5th May 1949.

R.I. No.2903

2-7-49

Emigration /49

slip P

Submitted.

Please see R.L.A.'s opinion No. 4927 dated 5th May 1949. P.A S.D. wrote to the Controller General of Emigration, New Delhi in terms of this opinion (p. 245). The Controller General of Emigration now states that by G. of I, notification No.F. 202/38 L.AO., dated 31.3.38, functions under the Indian Emigration Act & Rules made thereunder were entrusted to the Bombay Govt. for a period of 2 years only and the same was renewed from time to time but no notification was in operation after 30.9.1944 and after that date those functions must be deemed to have reverted to the Central Govt. He therefore states that it is not necessary to amend the above notification which is no longer in force.

The papers are shown to R.L.A. for remarks if any

2. P.A.S.D. has not forwarded notifications entrusting functions under the Indian Emigration Act, and the Rules made thereunder. The position stated by the Controller General of Emigration in his letter at p. 249/50,L.A D. dated 31.3.1938, certain functions under the Indian Emigration Act and rules made thereunder were entrusted to the Bombay Province only for a period of 2 years. This period was extended from time to time by notifications No. F.145/39 dated 31.1.1940, No. F.145/39 O.S dated 12.3.1941, No. 145/34(I) O.S., dated 25.3.1942. It appears that the functions entrusted by 1938

Gen. of India ..
Part I-1942 p-631
Slip M

notification were not extended further after 31.8.1943. But fresh functions under the same Act and the Rules were entrusted by the Deptt. of Indian Overseas notification No. F. 84-1/43-C3., dated 31-8-1943, for a period of one year from 1.4.1943. This period was further extended/for a period of six months from 1-4-1944 i.e. upto 30.9.1944 only. Presumably there was no further notification extending the period of entrustment. Consequently the functions entrusted to the Provl. Govt. must be deemed to have reverted to the Centr. Govt. from 1.10.1944. It is therefor not necessary to amend the notification of 1938 which is no longer in force. The statementat Dx of the Controller General's letter at p. 231 ante is misleading. The papers may be seen and returned. The view taken by the Controller General of Emigration in his letter at p.249, ante, is correct. Were all notifications entrusting functions by the Cen tral Govt. to the Provl. Govts. were looked up by P.A.S.D. and forwarded to this office the position would have been crystal clear.

Govt. of I. Part I-1943 p.375

I Reply mob be- seen & returned ince the notificat tion of 1938 and the notification of 1943 has elapsed the question of amending these notifications for the purpose ofTransferring the work to the Controller General does office not arise.

Note 6/8

MK

SO 7-6-956

Office of the R.L.A.

Seen and returned.

2. Since Government of India Department of Education, Health and Lands Notification No. F 262/36-L & O., dated the 31st March 1938 and Department of Indian Overseas Notification No. E 34-1/43-O.S., dated the 31st March 1943 have issued the question of amending these notifications for the purpose of transferring the work to the Controller General of Emigration does not arise.

P.M.Lad,

Remembrancer of Legal Affs.

U.S. to P.A S.D. No. 9015 , dated the 10th August 1949

Subd. for signature.

M.

SC 7-8-'50.